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In re Application of JUNGHANS et al
U.S. Application No.: 10/528,748
PCT Application No.: PCT/DE03/03179
Int. Filing Date: 19 September 2003
Priority Date Claimed: 23 September 2002
Attorney Docket No.: NHL-NP-49-NP
For: VACCINE AGAINST INFECTIONS
CAUSED BY ONCOVIRUSES SUCH AS
THE FELINE LEUCOSIS VIRUS OF CATS

DECISION

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 24 August 2005.

BACKGROUND

On 19 September 2003, applicant filed international application PCT/DE03/03179, which claimed priority of an earlier Germany application filed 23 September 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 08 April 2004. The thirty-month period for paying the basic national fee in the United States expired on 23 March 2005.

On 22 March 2005, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

International application PCT/DE03/03179 became abandoned as to the United States for failure to timely pay the basic national fee.

On 12 April 2005, applicant filed an execute declaration.

On 24 August 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notice of Defective Declaration, which should indicate that the declaration filed 12 April 2005 is improper.¹



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¹ Applicant is advised that the declaration filed 12 April 2005 is an improper composite declaration. Specifically, the declaration consists of one each of pages 1, 2, and 4 and two of page 3. It is not acceptable to submit only the signature page of a declaration since doing so raises doubt as to whether the signature page was associated with the rest of the declaration pages at the time of execution. Applicant is required to submit either: (1) a single complete declaration which is presented to and executed by all of the inventors or (2) multiple complete declarations, each of which is presented to an executed by at least one of the inventors.